

**ASSEMBLY BILL**

**No. 998**

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**Introduced by Assembly Member Fong**

February 22, 2013

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An act to amend Section 15657.3 of the Welfare and Institutions Code, relating to elderly and dependent adults.

LEGISLATIVE COUNSEL'S DIGEST

AB 998, as introduced, Fong. Elderly and dependent adults: civil actions.

Existing law provides that the department of the superior court having jurisdiction over probate conservatorships shall also have concurrent jurisdiction over civil actions and proceedings involving a claim for relief arising out of the abduction or abuse of an elderly or dependent adult. Existing law provides that after the death of the elder or dependent adult, the right to commence or maintain an action passes to the personal representative, and if there is no personal representative, to an intestate heir whose interest may be affected by the action, to the decedent's successor in interest, as defined, or an interested person, as defined, subject to specified conditions.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 15657.3 of the Welfare and Institutions
- 2 Code is amended to read:

1 15657.3. (a) The department of the superior court having  
2 jurisdiction over probate conservatorships shall also have  
3 concurrent jurisdiction over civil actions and proceedings involving  
4 a claim for relief arising out of the abduction, as defined in Section  
5 15610.06, or the abuse of an elderly or dependent adult, if a  
6 conservator has been appointed for the plaintiff prior to the  
7 initiation of the action for abuse.

8 (b) The department of the superior court having jurisdiction  
9 over probate conservatorships shall not grant relief under this  
10 article if the court determines that the matter should be determined  
11 in a civil action, but shall instead transfer the matter to the general  
12 civil calendar of the superior court. The court need not abate a  
13 proceeding for relief pursuant to this article if the court determines  
14 that the civil action was filed for the purpose of delay.

15 (c) The death of the elder or dependent adult does not cause the  
16 court to lose jurisdiction of a claim for relief for abuse of that elder  
17 or dependent adult.

18 (d) (1) Subject to paragraph (2) and subdivision (e), after the  
19 death of the elder or dependent adult, the right to commence or  
20 maintain an action shall pass to the personal representative of the  
21 decedent. If there is no personal representative, the right to  
22 commence or maintain an action shall pass to any of the following,  
23 if the requirements of Section 377.32 of the Code of Civil  
24 Procedure are met:

25 (A) An intestate heir whose interest is affected by the action.

26 (B) The decedent's successor in interest, as defined in Section  
27 377.11 of the Code of Civil Procedure.

28 (C) An interested person, as defined in Section 48 of the Probate  
29 Code, as limited in this subparagraph. As used in this subparagraph,  
30 "an interested person" does not include a creditor or a person who  
31 has a claim against the estate and who is not an heir or beneficiary  
32 of the decedent's estate.

33 (2) If the personal representative refuses to commence or  
34 maintain an action or if the personal representative's family or an  
35 affiliate, as those terms are defined in subdivision (c) of Section  
36 1064 of the Probate Code, is alleged to have committed abuse of  
37 the elder or dependent adult, the persons described in  
38 subparagraphs (A), (B), and (C) of paragraph (1) shall have  
39 standing to commence or maintain an action for elder abuse. This  
40 paragraph does not require the court to resolve the merits of an

1 elder abuse action for purposes of finding that a plaintiff who meets  
2 the qualifications of subparagraphs (A), (B), and (C) of paragraph  
3 (1) has standing to commence or maintain such an action.

4 (e) If two or more ~~persons~~ *individuals* who are either described  
5 in subparagraph (A), (B), or (C) of paragraph (1) of subdivision  
6 (d) or a personal representative claim to have standing to  
7 commence or maintain an action for elder abuse, upon petition or  
8 motion, the court in which the action or proceeding is pending,  
9 may make any order concerning the parties that is appropriate to  
10 ensure the proper administration of justice in the case pursuant to  
11 Section 377.33 of the Code of Civil Procedure.

12 (f) This section does not affect the applicable statute of  
13 limitations for commencing an action for relief for abuse of an  
14 elderly or dependent adult.